

BEFORE THE SOUTH DAKOTA ONE-CALL NOTIFICATION BOARD

IN THE MATTER OF THE COMPLAINT FILED)	NOTICE OF HEARING
BY WATERTOWN MUNICIPAL UTILITIES,)	
WATERTOWN, SOUTH DAKOTA AGAINST)	OC04-006
LAFRAMBOISE CONSTRUCTION,)	
WATERTOWN, SOUTH DAKOTA)	

On June 3, 2004, pursuant to SDCL 49-7A-17, the South Dakota One-Call Board (Board) received a complaint filed by Watertown Municipal Utilities, Watertown, South Dakota (Watertown), against LaFramboise Construction, Watertown, South Dakota (LaFramboise). According to the complaint, LaFramboise was excavating for a street project and hit a gas line. The complaint alleged that LaFramboise knowingly damaged a gas line and failed to notify the operator, or at least the One-Call Notification Center in accordance with SDCL 49-7A-12, until the following morning.

Pursuant to SDCL 49-7A-23 and 49-7A-24, a copy of the complaint was forwarded to LaFramboise via certified mail sent on June 9, 2004, advising LaFramboise that it must file an answer in writing by June 29, 2004. Return receipt indicates that Johnson signed for the notice on June 18, 2004. On June 27, 2004, an answer was filed by LaFramboise. Pursuant to SDCL 49-7A-22, a five member panel (Panel) was appointed by Kevin Kouba, Chairman of the Board, for the purpose of determining whether there was probable cause to believe there had been a violation of any statute or rule of the Board. The Panel met on July 14, 2004. Based on the information provided, the Panel determined that it was in the best interest of all parties if the meeting was suspended and that two questions be placed before the involved parties for response prior to making a final determination if probable cause was made. The Panel met again on August 4, 2004. Pursuant to SDCL 49-7A-25, the Panel unanimously recommended that there was insufficient evidence to determine the actual time of the damage and therefore dismissed Complaint OC04-006 alleging that LaFramboise had violated SDCL 49-7A-12 by its failure to report damage of an underground facility at 324 South Broadway in Watertown on May 26, 2004.

Pursuant to SDCL 49-7A-27, a copy of the Panel's recommendations was sent to the parties. On August 17, 2004, the Board received an acceptance of the Panel's recommendations from LaFramboise. On September 15, 2004, the Board received a rejection of the Panel's recommendations from Watertown. Watertown requested a hearing.

The Board finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-7A, including 49-7A-2, 49-7A-4, 49-7A-5, 49-7A-8, 49-7A-10, 49-7A-12, 49-7A-17 through 49-7A-27, inclusive, and SDCL Chapter 1-26.

A hearing shall be held on December 1, 2004, at 1:00 p.m. (CST) in the Auditorium of the NorthWestern Office Building, 600 Market Street, Huron, SD. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing shall be: 1) whether LaFramboise violated SDCL 48-7A-12 by knowingly damaging a gas line and failing to notify the operator, or, if unknown, the One-Call Notification Center.

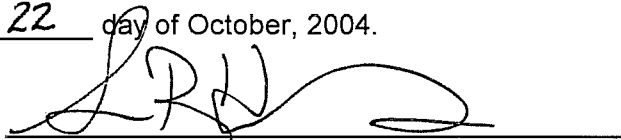
The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail

to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Board will consider all evidence and testimony that was presented at the hearing. The Board will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Board shall determine whether LaFramboise violated any statute or rule of the Board, and, if so, whether any penalties shall be imposed.

The Board's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please call 1-800-781-7474 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 22 day of October, 2004.



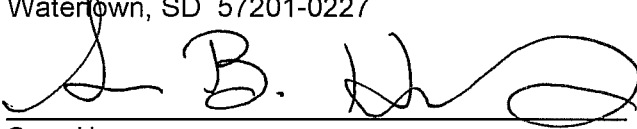
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CERTIFICATE OF SERVICE

I hereby certify that copies of Notice of Hearing were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the addresses shown below on this the 22 day of October, 2004.

Mr. Stanton W. Fox
City Attorney
23 Second Street N.E.
Watertown, SD 57201

Mr. Raymond D. Rylance
Attorney at Law
P. O. Box 227
Watertown, SD 57201-0227



Sara Harens
Attorney for the One-Call Board